

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

BAMBINETTE AND MICHAEL  
SCHRECKENDGUST, as Parents and  
Guardians of TYLER  
SCHRECKENDGUST, a minor,

Plaintiffs,

vs.

ASSOCIATED MATERIALS, LLC, a  
foreign limited liability company, and  
JOHN DOES 1-5,

Defendant.

CV 13–205–M–DWM

ORDER

Plaintiffs Bambinette and Michael Schreckendgust (“Plaintiffs”) have moved for Rule 37(c) discovery sanctions. (Doc. 16.) The dispute was argued on January 14, 2015.

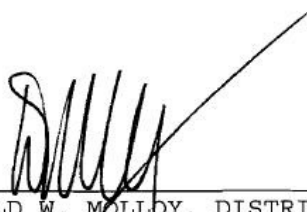
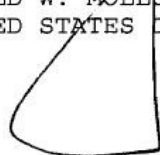
The matter before the Court is a discovery dispute that arises from a difference between what was asked in interrogatories and requests for admission and what was understood by the responding party when responding to arguably ambiguous questions. There is a reasonable language dispute here for which presentation to the jury, not sanctions, is the appropriate remedy.

Additionally, the parties failed to meet and substantively confer before the

current motion was brought. Although the parties had a brief telephone conversation regarding Plaintiffs' intention to bring the motion, the Local Rule requires that before any discovery motion<sup>1</sup> is brought, the parties must meet, confer, and try to resolve their differences. L.R. 26.3(c)(1). The rule is designed to avoid "fight to the last gasp"<sup>2</sup> problems over matters that can be professionally resolved by talking.

Accordingly, IT IS ORDERED that Plaintiffs' motion (Doc. 16) is DENIED. Plaintiffs' request for attorneys' fees is also DENIED. No sanctions or fees to either party. Fed. R. Civ. P. 37(a)(5)(A, B).

Dated this 14<sup>th</sup> day of January, 2015.

  
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DONALD W. MOLLOY, DISTRICT JUDGE  
UNITED STATES DISTRICT COURT  


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<sup>1</sup> See Fed. R. Civ. P. 37 (titled "Failure to Make Disclosures or to Cooperate in Discovery; Sanctions").

<sup>2</sup> *King Henry VI*, Pt. I, I.ii.127.